

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
AUSTIN ENERGY, LLC,

Plaintiff,

-against-

ECOLUMENS, LLC,

Defendant.
-----X

ORDER
11-CV-5749 (ADS)(ARL)

APPEARANCES:

The Weinstein Group, P.C.

Attorneys for the plaintiff

10 Newton Place, Suite 201

Hauppauge, NY 11788

By: Lloyd Weinstein, Esq., Of Counsel

NO APPEARANCE:

Ecolumens, LLC

SPATT, District Judge.

On November 23, 2011, the plaintiff commenced this action against the defendant, Ecolumens, LLC, asserting causes of action for breach of contract; fraud; fraudulent inducement; defamation; tortious interference with business relationships; negligence; and unjust enrichment. The Clerk of Court noted the default of defendant Ecolumens, LLC on February 23, 2012, and on February 23, 2012, the plaintiff moved for a default judgment. On April 2, 2012, the Court referred this matter to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorney's fees and costs.

On August 13, 2012, Judge Lindsay issued a Report and Recommendation, recommending that the Court enter a default judgment against the defendant, and that the

plaintiff be awarded \$137,611.43 in damages, plus post-judgment interest to be calculated by the Clerk of the Court pursuant to 28 U.S.C. § 1961. To date, there have been no objections filed to Judge Lindsay's Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Lindsay's Report and finds it to be persuasive and without any legal or factual errors.

There being no objection to Judge Lindsay's Report, it is hereby

ORDERED, that Judge Lindsay's Report and Recommendation is adopted in its entirety. The Court: (1) grants the plaintiff's motion for a default judgment as against defendant Ecolumens, LLC and (2) awards the plaintiff \$137,611.43 in damages, plus post-judgment interest to be calculated by the Clerk of the Court pursuant to 28 U.S.C. § 1961, and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of the plaintiff as set forth above, and it is further

ORDERED, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
September 10, 2012

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge